



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Julio C. Spinelli et al.

Title: CENTRALIZED MANAGEMENT SYSTEM FOR PROGRAMMABLE MEDICAL DEVICES

Docket No.: 279.373US1

Serial No.: 10/008,354

Filed: November 7, 2001

Due Date: January 1, 2005 (a Saturday)

Examiner: Joseph S. Machuga

Group Art Unit: 3762

**Mail Stop Amendment**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

We are transmitting herewith the following attached items (as indicated with an "X"):

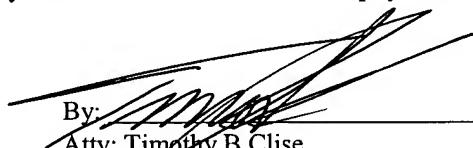
- A return postcard.
- A Petition for Extension of Time (1 pg.), *including authorization to charge Deposit Account No. 19-0743 in the amount of \$1020.00 to cover the Extension of Time Fee.*
- A Response Under 37 C.F.R. 1.111 (13 pgs.).
- A Supplemental Information Disclosure Statement (2 pgs.), Form 1449 (3 pgs.), and copies of 51 cited documents *including authorization to charge Deposit Account No. 19-0743 in the amount of \$180.00 to cover the fee for consideration of Supplemental Information Disclosure Statement under 1.97(c)(2).*
- A copy of the Office Action dated July 1, 2004 (5 pgs.)

If not provided for in a separate paper filed herewith, Please consider this a PETITION FOR EXTENSION OF TIME for sufficient number of months to enter these papers and please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.

Customer Number 21186

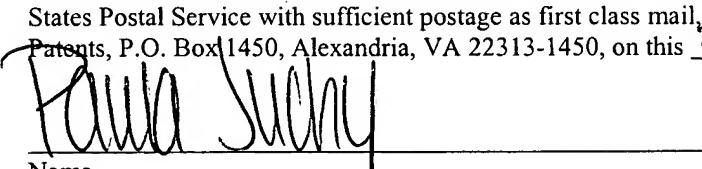
By:

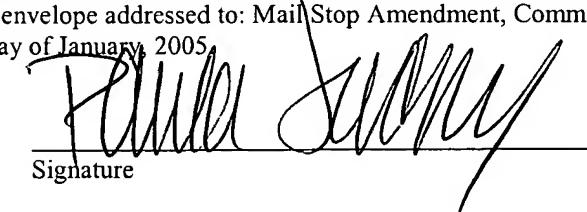


Atty: Timothy B Clise

Reg. No. 40,957

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 3 day of January, 2005.

  
Name

  
Signature

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,354	11/07/2001	Julio C. Spinelli	CPI 279.373US1	4381
21186	7590	07/01/2004		EXAMINER
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A. P.O. BOX 2938 MINNEAPOLIS, MN 55402			MACHUGA, JOSEPH S	
			ART UNIT	PAPER NUMBER
			3762	

DATE MAILED: 07/01/2004

COPY

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.	Applicant(s)	
10/008,354	SPINELLI ET AL.	
Examiner	Art Unit	
Joseph S. Machuga	3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-46 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

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### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_.



***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1-3, 6-17, 20-26, 28-41, 43, 44 and 46 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Nelson et al #65644104.

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***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 4, 5 18 19 27 42 45 rejected under 35 U.S.C. 103(a) as being unpatentable over Nelson #6564104 in view of Failandier #5800473.

Nelson discloses a centralized management system. It includes (fig 2) a network, central server (220+) and device programmer (112+.) Not disclosed by this reference is the plurality of expert systems. Failandier discloses an automated system for updating implantable medical devices. The device allows the user to select from a plurality of

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expert systems. Given this teaching it would have been obvious to add a selection of expert systems to Nelson's device given Failandiers teaching of this.

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph S. Machuga whose telephone number is 703-305-6184. The examiner can normally be reached on Monday-Friday; 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela D Sykes can be reached on 703-308-5181. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Joseph S. Machuga  
Examiner  
Art Unit 3762

Kennedy Schaezle  
KENNEDY SCHAEZLE  
PRIMARY EXAMINER  
6-28-04

<b>Notice of References Cited</b>		Application/Control No. 10/008,354	Applicant(s)/Patent Under Reexamination SPINELLI ET AL.	
		Examiner Joseph S. Machuga	Art Unit 3762	Page 1 of 1



#### U. S. PATENT DOCUMENTS

*	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
A	US-2001/0031997	10-2001	Lee, Michael Thomas	607/59
B	US-6,669,631	12-2003	Norris et al.	600/300
C	US-6,564,104	05-2003	Nelson et al.	607/60
D	US-6,442,432	08-2002	Lee, Michael Thomas	607/59
E	US-5,911,132	06-1999	Sloane, Neil James Alexander	705/3
F	US-5,800,473	09-1998	Faisandier, Yves	607/59
G	US-5,893,076	12-1997	Kaemmerer, William F.	607/59
H	US-5,807,460	03-1997	Kroll et al.	607/30
I	US-5,594,638	01-1997	Iliff, Edwin C.	705/3
J	US-5,431,691	07-1995	Snell et al.	607/27
K	US-			
L	US-			
M	US-			

#### FOREIGN PATENT DOCUMENTS

*	Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
N					
O					
P					
Q					
R					
S					
T				RECEIVED JAN 07 2005 TECHNOLOGY CENTER 2000	

#### NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.